



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED:02.04.2019
CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P(MD) No.5864 of 2015

WEB COPY

E.Jeyanthi

... Petitioner

vs.

- 1.The Government of Tamil Nadu
rep. by its Secretary,
School Education Department,
Fort St. George,
Chennai-09.
- 2.The Director of School Education,
College Road,
Chennai-06.
- 3.The Chief Educational officer,
Nagercoil,
Kanyakumari District.
- 4.The District Educational Officer,
Nagercoil,
Kanyakumari District.
- 5.The Correspondent,
Ringle Taube Higher Secondary School
Mylaudy
Nagercoil,
Kanyakumari District-629 403.
- 6.The Corporate Manager,
C.S.I Schools
Kanyakumari Diocese
71-A, Dennis Street
Nagercoil,
Kanyakumari District-629 001.

... Respondents

PRAYER:Writ Petition filed under Article 226 of the Constitution of India praying to issue a writ of Certiorarified Mandamus calling for the records relating to the impugned order passed by the 3rd respondent in Na.Ka.No.4235/Aa1/2014 dated 23.6.2014 and quash the same and consequently direct the respondents to approve petitioner's appointment of the post of Vocational Instructress in the 5th respondent school with effect from 1.6.2010 with salary and other benefits and pass such further or other orders.



For Petitioner : Mr.K.Guhan
For Respondents : Mrs.S.Srimathy

Special Govt. Pleader for RR-1 to 4
No appearance for R-5 & R-6

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ORDER

The Writ Petition has been filed challenging the order passed by the 3rd respondent in Na.Ka.No.4235/Aa1/2014 dated 23.6.2014 and quash the same and consequently direct the respondents to approve the petitioner's appointment as Vocational Instructress in the 5th respondent school with effect from 1.6.2010 with salary and other benefits

2. Heard the learned Counsel appearing for the petitioner and Mrs.S.Srimathy, learned Special Government Pleader appearing for the respondents 1 to 4. The respondents 5 and 6 have not chosen to appear before this Court either in person or through the counsel.

3. The case of the petitioner is that she was appointed in the fifth respondent school on 01.06.2010 as Vocational Instructress (Accountancy and Auditing) in the place of one E.Sheela Padmini, who had retired from service on 31.05.2010 from a Government approved full time teaching post. Thereafter, the school submitted a proposal for approval of appointment of the petitioner to the Director of the School Education on 31.01.2012. The said proposal was not accepted by the respondent stating that there is no provision to appoint the post of Vocational Teacher. Thereafter, the school submitted representations to the respondents 1 to 4 on 08.03.2012 and 24.05.2012. Though on 31.08.1981, the second respondent approved the Vocational course in Accountancy and Auditing subject in the fifth respondent school, but rejected the approval for petitioner's appointment for full time post, submitted by the fifth respondent, based on G.O.Ms.No.991 (Educational Department), dated 16.07.1990. According to the petitioner, as she was appointed in a full time permanent Vocational Instructress post, the said G.O is not applicable to her case. Hence, she made a representation to the respondents on 14.02.2014 to approve her appointment. Since there was no action by the respondents, the present writ petition has been filed.

4.The learned counsel appearing for the petitioner submitted that this Court has already decided a similar issue in W.P.(MD). Nos.16386 of 2017 & batch, dated 07.03.2019 and hence, similar orders may be passed in this case also, for which, the learned Special Government Pleader appearing for the respondents 1 to 4 has no serious objection.

5.This Court perused the order passed by this Court in W.P. (MD).Nos.16386 of 2017 & batch, dated 07.03.2019, wherein, it is held as follows:
<https://hcservices.ecourts.gov.in/hcservices/>



6. It is useful to refer to the relevant portions of the Judgment of this Court in **The State of Tamil Nadu and others Vs. The Secretary/Correspondent [W.A (MD) No. 1494 of 2017, decided on 01.03.2018]**, hereunder:-

"7. After elaborate and careful perusal of the materials on record, we find from the staff fixation year 2013-14, dated 29.10.2017 as on 01.08.2013 there was one post of Vocational Instructor for the subject General Mechanist and on the date when Thiru.R.Kannan was appointed, ie., 10.06.2013, the School had one post of Vocational Instructor and therefore, to state that the appointment itself is not sustainable is a stand which has to be rejected.

8. Next we come to staff fixation done by the Department for the year 2014 vide order, dated 07.11.2014. It is interesting to note that in the said order, the appellant department records the fact that there are 46 students in the 11th standard and 39 students in the 12th standard in spite of the same stated in the fixation order that one post is surplus. In our considered view, the Department cannot take such a technical plea. When it is admitted fact there exists sufficient students strength, the course has to continue. Thus, the order of the fifth respondent showing one post of Vocational Instructor as surplus, he has virtually closed down the said course as there would be no teacher. We cannot lose sight of the fact when there is full students strength and course is in demand, the Department cannot take such a stand and render one post as surplus. In the Government Order in G.O.Ms.No.525, School Education (D1) Department, dated 29.12.1997, in paragraph No.IV, the number of post eligible for Higher Secondary School is mentioned in the clause (d) of the said order which states that for vocational stream, two posts of teachers (full time) will be sanctioned irrespective of the number of courses. Therefore, even while passing the order, dated 29.10.2013 and fixing the staff strength for the year 2013-14, the respondent/Management was entitled to two post of Vocational Instructor. Thus, we find the reason for rejection of approval of the Vocational Instructor, Thiru.R.Kannan as well as staff fixation for the year 2014-2015 is completely flawed.

9. In the result, we dismiss the Writ Appeal for the reasons stated above and issue the following directions:-

(i) The respondents 4 and 5 shall approve the appointment of Thiru.R.Kannan, Vocational Instructor, which appointment was made on



10.06.2013, as the post was very much available in terms of staff fixation order, dated 29.10.2013.

(ii) Insofar the Academic Year 2014-2015 is concerned, the respondents 4 and 5 are directed to take note of the factual aspects which is admitted in the fixation order itself, namely, students strength and sanction one post with effect from the year 2014-2015 onwards in the category Vocational Instructor and the petitioner is entitled to be paid salary in the said post.

10. The above direction should be complied with within a period of twelve weeks from the date of receipt of copy of this order. Accordingly, the Writ Appeal fails and stands dismissed."

7. Following the same, the impugned order passed by the third respondent is set aside and the matter is remitted back to the respondent authorities for reconsidering the proposal submitted by the fifth respondent seeking approval for appointment of the petitioner as Vocational Instructress in the light of the order of this Court dated 07.03.2019 in W.P.(MD).No.16386 of 2017 etc batch of cases and pass appropriate orders within a period of 12 weeks from the date of receipt of a copy of this order. No costs.

Sd/-

Assistant Registrar

/ True Copy /

Sub Assistant Registrar(CS)

Vs

To

1. The Secretary,
Government of Tamil Nadu
School Education Department,
Fort St. George, Chennai-09.

2. The Director of School Education,
College Road, Chennai-06.

3. The Chief Educational officer,
Nagercoil, Kanyakumari District.

4. The District Educational Officer,
Nagercoil, Kanyakumari District.

+1 CC to M/s.K.GUHAN, Advocate (SR-58448[F] dated 02/04/2019)

+1 CC to M/s.SPL GP (SR-58612[F] dated 03/04/2019)

W.P(MD) No.5864 of 2015

02.04.2019